

PT 98-47

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

**SISTERS OF THE ORDER
OF SAINT BENEDICT
Applicant**

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

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Docket # 95-34-82

Parcel Index # 01-36-000-757

**Barbara S. Rowe
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Appearances: Rodney G. Clark, Capps, Ancelet & Clark, attorney for Sisters of the Order of St. Benedict.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue (hereinafter referred to as the "Department") in Springfield, Illinois, on November 3, 1997, to determine whether or not Hancock County Parcel Index No. 01-36-000-757 qualified for a property tax exemption during the 1995 assessment year.

Sister Susan Hutchens, treasurer of the Sisters of the Order of St. Benedict (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1995 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether the parcel was used by the applicant for religious purposes during the assessment year. Following the submission of all the evidence and a review of the record, it is determined

that the applicant owned this property for the entire 1995 assessment year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant used this property for religious purposes during the 1995 assessment year.

It is therefore recommended that Hancock Parcel Index No. 01-36-000-757 be exempt from real estate taxation for the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Hancock County Parcel Index No. 01-36-000-757 did not qualify for a property tax exemption for the 1995 assessment year was established by the admission into evidence of Department's Exhibit Nos. 1 through 5. (Tr. p. 9)

2. On November 20, 1995, the Department received a property tax exemption application from the Hancock County Board of Review for Permanent Parcel Index No. 01-36-000-757. The applicant had submitted the request, and the board recommended a full year exemption for the 1995 assessment year. The Department assigned Docket No. 95-34-82 to the application. (Dept. Grp. Ex. Ex. No. 2)

3. On June 6, 1996, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on November 3, 1997, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the property in question by a warranty deed dated May 1, 1926. (Dept. Ex. No. 2 pp. 7-9)

7. Hancock County Parcel Index No. 01-36-000-757 is commonly known as 175 South Wells Street, Nauvoo, Illinois. It is located across the street from applicant's monastery. (Dept. Ex. No.2 p. 1; Tr. p. 13)

8. Located on the parcel is a two-story white house encompassing 2064 square feet. The applicant and its guests use the building as a retreat and hospitality house. (Dept. Ex. No. 2 pp. 1, 5, 13)

9. The house contains a living room, dining room, kitchen, bath, and bedroom on the first floor. The second floor contains four bedrooms and another bath. (Tr. pp. 20-21)

10. As an example of a guest on a retreat, a Methodist minister comes every month and usually stays overnight. During the time spent at the house he works on his sermons. He joins the applicant for prayer at noon and in the evening and usually takes his meals at the applicant's monastery. (Tr. pp. 30-31)

11. Persons on retreats often spend the day and walk. There is a view of the river from the property. Most of them simply read, pray, and join the applicant for prayers. (Tr. p. 31)

12. The applicant does not have a set fee for the people staying in the retreat house. The applicant has no rental agreements or contracts for persons that use the house. Applicant asks for a donation and suggests \$25.00 for an overnight stay and three meals. Of the 350 person days that the applicant recorded persons staying in the retreat house, at least 72 left no donation. (Applicant's Ex. No. 2; Tr. pp. 14, 16, 30)

13. The mission of the applicant is to seek God. The members of the applicant commit themselves to a balanced life of work and prayer as a monastic community formed by the Gospel and the rule of St. Benedict. The members serve the people of God through the ministries of prayer, hospitality, and outreach to the poor. Part of applicant's ministry is accepting guests into their facilities. (Tr. p. 12)

14. The purpose of the applicant, according to its articles of incorporation is:

1. To establish and maintain a community of Roman Catholic women religious[ly] dedicated to the service of God and of others.
2. To carry on works such as education, health care and social service within or without the State of Illinois, including foreign countries and territories, and in accordance with ecclesiastical, civil and professional norms. (Applicant's Ex. No. 1)

15. The primary work of Benedictines according to the rule of St. Benedict is prayer. Benedictines pray together three times daily. The morning prayer and evening prayer last about a half-hour. Noon prayer is usually 10 minutes long. There is a definite order including Psalms, hymns, and reading. (Tr. pp. 14, 31)

16. Another major primary work listed within the rule of St. Benedict is to provide hospitality for guests. (Tr. p. 14)

17. When people come to the facility for a retreat, they use the building on the parcel in question for quiet space and sleeping. (Tr. p. 14)

18. The retreatants often participate with the applicant in their life of prayer. (Tr. p. 15)

19. Affiliated with the applicant is a group of lay people who are applicant's oblates. The oblates have chosen to associate themselves with applicant's life of prayer and follow the rule of St. Benedict. A group joins the sisters every Saturday morning for prayer. Once a year applicant sponsors a weekend for the oblates. The oblates often stay in the house on the parcel in question. The Monastery has somewhere between 150 and 250 oblates. (Tr. pp. 16-17, 32)

20. The applicant has also used the building on the parcel in question for meetings. (Tr. p. 13)

21. For applicant's fiscal year of July 1, 1996, through June 30, 1997, with respect to the retreat house, applicant had income in the amount of \$4,111.10 and expenses of \$4,848.68. The sources of applicant's income for the house were: Retreatants-\$2541.00; Sister's families-\$790.00; Oblates-\$385.00; Monastery guests-\$230.00, and Other-\$165.00. The figures are similar to the income and expenses for the taxable year in question. (Applicant's Ex. No. 2; tr. pp. 18-19, 23-25)

22. Applicant's monastery only contains one guestroom. (Tr. p. 21)

23. The applicant is exempt from the payment of federal income taxes pursuant to a 501(c)(3) designation from the Internal Revenue Service. (Applicant's Ex. No. 2; Tr. pp. 29-30)

24. The applicant is exempt from the payment of sales and use taxes to the state of Illinois. (Dept. Grp. Ex. No. 2 p. 1)

25. I take administrative notice of the fact that the Department granted the applicant a property tax exemption pursuant to Docket No. 85-34-06. (Applicant's Ex. No. 1)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

The Department pursuant to Docket No. 85-34-6 granted the applicant a property tax exemption. Therefore, the Department has determined that the applicant is a religious organization. The only question before me is whether the applicant's use of the building on the parcel in question qualifies for a religious property tax exemption.

The Supreme Court in MacMurray College v. Wright, 38 Ill.2d 272 (1967), in considering whether or not faculty housing at a college qualified for exemption, concluded that the exemption would be sustained if it is established that the property is primarily used for purposes which are reasonably necessary for the accomplishment and fulfillment of the educational objectives or efficient administration of the particular institution.

Based on the foregoing, I conclude that the retreat and hospitality house was reasonably necessary for the efficient administration of a retreat center, as it provided the participants overnight accommodations at the site. The retreat center is part of the housing for retreat participants and is not a permanent residence facility. I also find that said housing is reasonably necessary to the religious purposes of the applicant in the operation of its Monastery. I find that the applicant has established that the housing of guests is integral to the religious character of the applicant.

It is therefore recommended that Hancock County Parcel Index No. 01-36-000-757 be exempt from real estate taxation for the 1995 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
JUNE 5, 1998